

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

STATE OF NEW JERSEY,)
Plaintiff) Civil Action
vs.) No. 07-cv-05298
RRI ENERGY MID-ATLANTIC POWER)
HOLDINGS, LLC,)
RRI ENERGY POWER GENERATION,)
INC.,)
SITHE ENERGIES, INC.,)
now known as Dynegy, Inc., and)
METROPOLITAN EDISON CO.,)
Defendants)
and)
STATE OF CONNECTICUT,)
Intervenor-Plaintiff)
vs.)
RRI ENERGY MID-ATLANTIC POWER)
HOLDINGS, LLC,)
RRI ENERGY POWER GENERATION,)
INC.,)
SITHE ENERGIES, INC.,)
now known as Dynegy, Inc., and)
METROPOLITAN EDISON CO.,)
Intervenor-Defendants)

O R D E R

NOW, this 28th day of March, 2013, upon consideration of the following documents:

- (1) Defendant Metropolitan Edison Company's Motion for Summary Judgment filed July 27, 2012 (Document 251), together with
 - (A) Memorandum in Support of Defendant Metropolitan Edison Company's Motion for Summary Judgment (Document 251-1);

- (B) Exhibits 1 through 26 to defendant Metropolitan Edison Company's memorandum (Documents 251-2 through 251-5);
- (2) Statement of Material Facts Not in Genuine Dispute filed by defendant Metropolitan Edison Company on August 7, 2012 (Document 253), together with
 - (A) Exhibits 1 through 26 to defendant Metropolitan Edison Company's statement of facts (Documents 253-1 through 253-4)¹;
- (3) Plaintiff-Intervenor State of Connecticut's Opposition to Defendant Metropolitan Edison Company's Motion for Summary Judgment, which opposition was filed August 17, 2012 (Document 257), together with
 - (A) Plaintiff-Intervenor State of Connecticut's Statement of Material Disputed Facts in Opposition to Defendant Metropolitan Edison Company's Motion for Summary Judgment (Document 257-1);
 - (B) Exhibits 1 through 27 to plaintiff-intervenor State of Connecticut's opposition to summary judgment (Documents 257-2 through 259-3)²;
- (4) Plaintiff New Jersey's Memorandum of Law in Opposition to Defendant Metropolitan Edison Company's Motion for Summary Judgment, which opposition was filed August 17, 2012 (Document 261), together with
 - (A) Plaintiff New Jersey's Statement of

¹ The Exhibits attached to defendant Metropolitan Edison Company's statement of facts are identical to the Exhibits attached to their memorandum in support of their motion for summary judgment.

² Plaintiff-Intervenor State of Connecticut does not label the attachments to its opposition. However, Connecticut supplied the court with a courtesy copy of its papers, which separate the attachments into 27 exhibits. Connecticut's 27 exhibits are identical to New Jersey's 27 exhibits.

Facts in Opposition to Defendant Metropolitan Edison Company's Motion for Summary Judgment (Document 261-1);

- (B) Declaration of Counsel in Support of Opposition to Defendant's Motion for Summary Judgment (Document 261-2), together with
 - (C) Exhibits NJ-1 through NJ-27 to plaintiff State of New Jersey's declaration of counsel (Documents 261-3 through 261-10);
 - (D) Declaration of Alan Dresser (Document 261-11), together with
 - (E) Exhibits A through C to the declaration of Alan Dresser (Document 261-12);
- (5) Metropolitan Edison Company's Reply to States' Opposition to Motion for Summary Judgment, which reply was filed on September 17, 2012 (Document 265), together with
- (A) Metropolitan Edison Company's Reply to States' Statement of Material Facts in Opposition, which reply was filed September 5, 2013 (Document 262-2);
 - (B) Declaration of Counsel in Support of Metropolitan Edison Company's Reply Brief in Support of its Motion for Summary Judgment, which declaration was filed September 5, 2013 (Document 262-3);
 - (C) Exhibits 27 through 40 filed September 5, 2013 (Documents 262-2 through 262-8);
 - (D) Rosenthal Ex. 1 through 20 filed September 5, 2013 (Documents 262-9 through 262-12)³;

³ Exhibit 34 to defendant Metropolitan Edison Company's reply is an Affidavit of Roberta A. Rosenthal in Support of Metropolitan Edison Company's Motion for Summary Judgment (Document 262-6).

- (6) Plaintiff New Jersey's Surreply Memorandum in Opposition to Metropolitan Edison Company's Motion for Summary Judgment, which surreply was filed October 2, 2012 (Document 269);
- (7) Supplemental Evidence filed by plaintiff State of New Jersey on February 13, 2013 (Document 355);
- (8) Supplemental Evidence filed by defendant Metropolitan Edison Company on February 13, 2013 (Document 356);
- (9) Supplemental Brief in Support of Metropolitan Edison Company's Motion for Summary Judgment, which brief was filed February 27, 2013 (Document 385-1);
- (10) Plaintiffs' Memorandum of Law in Opposition to Defendant Metropolitan Edison Company's Supplemental Brief Regarding *Gabelli* in Support of Its Motion for Summary Judgment, which memorandum was filed March 11, 2013 (Document 393); and
- (11) Metropolitan Edison Company's Reply to States' Opposition to Supplemental Brief in Support of Motion for Summary Judgment, which reply was filed March 14, 2013 (Document 401-1);

after oral argument conducted February 22, 2013; and for the reasons set forth in the accompanying Opinion,

IT IS ORDERED that Defendant Metropolitan Edison Company's Motion for Summary Judgment is granted.

IT IS FURTHER ORDERED the claims asserted against defendant Metropolitan Edison Company in New Jersey's Second Amended Complaint and Connecticut's Second Amended Complaint-in-Intervention are dismissed with prejudice.

BY THE COURT:

/s/ James Knoll Gardner
James Knoll Gardner
United States District Judge